

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

AMERICAN MANUFACTURERS MUTUAL
INSURANCE COMPANY,

Plaintiff,

vs.

TOWN OF NORTH BROOKFIELD,
Defendant.

Civil Action No. 03-40266 CBS

JOINT MOTION TO EXTEND AND MODIFY SCHEDULING ORDER

Plaintiff, American Manufacturers Mutual Insurance Company (“AMMIC”), and Defendant, Town of North Brookfield (the “Town”) (collectively, the “Parties”), by way of undersigned counsel, hereby move this Court to extend and modify the remaining tracking deadlines. The parties request that the Court enter an Order extending all remaining discovery dates by approximately three weeks because of an unanticipated delay in additional document production relative to expert discovery. Additionally, the Parties seek the right to file one reply brief to any dispositive-motion opposition, because this will save time, expense, and reduce uncertainty for the Parties. As further grounds for this Motion, the Parties state as follows:

1. The parties have exchanged initial expert reports and are in the process of preparing rebuttal reports. AMMIC recently determined that it was not in possession of certain documents utilized in, or relative to, the Town’s expert reports. AMMIC requested these documents from the Town’s expert. Despite the best efforts of the Town’s expert, it has taken longer than expected to produce the requested documents – primarily because these documents had to be identified among voluminous project files at various geographic locations.

2. While the Parties are assured that the documents are forthcoming, more time is required for their arrival. The Parties also agree that submitting *complete* rebuttal reports, without the need for supplementation, will streamline the deposition process. Allowing more time will therefore enable the Parties to submit *complete* rebuttal reports and reduce the need for supplementation. Moreover, the Parties agree that final decisions regarding expert deposition scheduling should not be made until complete rebuttal reports are submitted and reviewed.

3. The Parties further state and affirm that this request is not the result of dilatory and delinquent action, but rather an outgrowth of a complex legal and factual issues.

4. Finally, the Parties seek leave to file one reply brief, as of right, in response to any opposition to a dispositive motion. The Parties anticipate that motion practice will involve some of the largest issues in the case. Thus, it is reasonably foreseeable that the Parties will be requesting leave to file reply memoranda. In order to save time, expense, and reduce uncertainty, the Parties request that such leave be granted as described below.

WHEREFORE, the Parties respectfully request the following:

- Expert depositions to be completed by 11/18/05. Supplemental reports by 10/28/05.
- All dispositive motions, including motions for summary judgment, are to be filed by 12/16/05 and oppositions are to be filed by January 20, 2005 pursuant to Local Rule 7.1.
- One reply brief may be filed per opposition, as of right, by 1/31/05 and any subsequent reply briefs by leave of Court.

- A final pretrial conference will be set by Magistrate Charles B. Swartwood, and must be attended by trial counsel. Counsel shall be prepared to commence trial as of the date of the final pretrial conference.

Respectfully submitted,

Town of North Brookfield

American Manufacturers Mutual Insurance
Company

By its attorneys,

By its attorneys,

/s/ Thomas W. McEnaney

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Dated: October 7, 2005.

CERTIFICATE OF SERVICE

I, Jeff D. Bernarducci, counsel to the Plaintiff, American Manufacturers Mutual Insurance Company, in the above-captioned matter, do hereby certify that on October 7, 2005, I served a copy of the Joint Motion to Extend Scheduling Order by way of electronically filing the same through ECF, to:

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